

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MICHAEL C. JOSEPH,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:05CV1965(FRB)
	)	
JIMMIE EDWARDS, et al.,	)	
	)	
Respondents.	)	

**ORDER AND MEMORANDUM**

This matter is before the Court upon the application of Michael C. Joseph (registration no. OR141991), an inmate at the St. Louis City Justice Center (SLCJC), for leave to commence this action without payment of the required filing fee [Doc. #1]. Upon review of applicant's financial information, the Court finds that the applicant does not have sufficient funds to pay the entire filing fee. See 28 U.S.C. § 1915. Therefore, applicant will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

**The petition**

Petitioner states that on September 12, 2005, he was sentenced to two 10-year terms of imprisonment and a 5-year term of imprisonment for robbery, armed criminal action, and stealing a motor vehicle. Petitioner claims that his convictions and

sentences are invalid because of "abuse of process undue anxiety" in pleading guilty to the charges.

### **Discussion**

Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 should be dismissed. Title 28 U.S.C. § 2254 requires that petitioner exhaust his available state remedies before seeking federal habeas relief. See 28 U.S.C. § 2254(b)(1). There is no indication on the face of the application that petitioner has even presented - much less exhausted - his claims to the state courts. Petitioner does not contend that there is an absence of available state remedies. Nor does petitioner assert that circumstances exist that render such state remedies ineffective to protect his rights. Therefore, the instant petition should be dismissed, without prejudice, because petitioner has failed to exhaust his available state remedies.

In accordance with the foregoing,

**IT IS HEREBY** that plaintiff's motion to proceed in forma pauperis [Doc. #1] is **GRANTED**.

**IT IS FURTHER ORDERED** that the Clerk shall not issue process or cause process to issue upon the petition because petitioner has not exhausted his available state remedies.

An appropriate order shall accompany this order and memorandum.

Dated this 15th day of November, 2005.

  
UNITED STATES DISTRICT JUDGE